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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,298	06/20/2001	Keith Barraclough	8X8S.244PA	2678

7590 04/05/2006

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EXAMINER	
RAMAKRISHNAIAH, MELUR	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/885,298	BARRACLOUGH, KEITH	
	Examiner	Art Unit	
	Melur Ramakrishnaiah	2614	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See the attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Melur Ramakrishnaiah
Primary Examiner
Art Unit: 2614

Response to Arguments to after final rejection

1. Rejection of claims 1-5, 12-17, 23-29, and 31-35 under 35 U.S.C 103(a) as being obvious over Nabavi (GB 2325548A) in view of Schneider et al. (US PAT: 5,929,897, hereinafter Schneider: Regarding rejection of the above claims, Applicant alleges that after giving his own interpretation of Nabavi reference and Schneider references "Applicant submits that it is untenable to maintain rejections based on such an unrelated references because it would not lead the skilled artisian to change any aspect of the '548 reference and would cetinly not lead the skilled artisian to entirely change its teachings. The '548 reference already teachhes ... there is no rationale for this modification because it would be expensive, redundant to already establisged paths for user communication and '548 reference has no need for users to interact with a selcted one of multiple bank agents over ISDN service". Regarding this, Applicants argument as to references are not related is not persuasive because both references teach communication means for users to interact with system to obtain services for users just as applicant's invention has communication arrangement so that users can obtain services. Further In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Applicant's further arguments that it would be expensive, redundant, etc to modify the reference is based on applicant's alleged conclusion that it would be expensive in his view to modify the reference and based on subjective

analysis of his own. Besides these arguments are not related to applicant's claim limitations.

Applicant further alleges that "The examiner Has provided No evidence for the proposed modification: Applicant argues in the second paragraph of page 4 of his response to office action dated 12-30-2005 to the effect that Nabavi and Schneider cannot be combined and go into enormous lengths to allege that office action has not given any reason to combine the references other than asserting that skilled artesian would introduce a first communication service ('897 POTS) communicatively coupled and adapted to deliver a request for image data in order to establish video communication with alarm controller 1 and /or computer 19 of the '548 reference. Contrary to applicant's allegation that the office action has not given any reasons to combine the references, office action clearly states that Schneider teaches a cost effective method for establishing video communication between a remote station and a central facility by delivering a request for establishing a video call, i.e., image data communications, over a POTS, i.e., a first communication system, and then the central facility, read as the first computer arrangement, is operable for automatically establishing video communication to the high bandwidth channel, i.e., a second communication system, in response to the request received from the first communication system (col. 1, lines 53-61, col. 4 lines 30-41 and col. 5 line 64 through col. 6 line 3). Therefore one of ordinary skill in the art at the time invention was made would be motivated to modify Nabavi's system in having a first communication system communicatively coupled and adapted to deliver a request for image data so that first

computer arrangement is configured to receive request for image data from the first communication system, as per teaching of Schneider, in order to establish the video communication in cost effective manner and further, as is well known in the art POTS provides cost effective communication medium compared to other communication systems such as high bandwidth system for communication purposes.

Applicant further argues that rationale for combining Nabavi with Schneider is arrived at hindsight. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Applicant further continues to allege in the last two paragraphs of page 11 of his response dated 10-17-2005, that the combining of Nabavi with Schneider is not proper which is not persuasive because as explained above one of ordinary skill in the art would be motivated to combine Nabavi with Schneider for reasons set forth above.

Further Applicant's further arguments such as the proposed modification would frustrate the purpose of '548 reference is based on attacking individual references. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant further argues that "Examiner has not presented a corresponding combination of references". This argument is similar to one already made and this has been addressed by the examiner above as to reason for combination of Nabavi and Schneider references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melur Ramakrishnaiah
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Art Unit 2614